

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

GILBERT MEDICAL BUILDING LCC,)	
and AKY MD GILBERT, LLC,)	
)	
Plaintiffs,)	
)	
v.)	CIV-20-896-R
)	
TRAVELERS CASUALTY)	
INSURANCE COMPANY OF)	
AMERICA,)	
)	
Defendant.)	

PLAINTIFF'S UNOPPOSED MOTION TO CONTINUE
THE TRIAL SETTING AND CURRENT SCHEDULING ORDER DEADLINES

Plaintiff AKY MD GILBERT, LLC moves the Court to continue the trial setting for 90 days, along with the concomitant scheduling order deadlines, pursuant to LCvR7.1(h). Defendant has no objection to this motion.

1. On August 26, 2021, the Court granted the parties' joint request for a 14-day extension to serve expert disclosures and to file Daubert and dispositive motions. The current deadlines are:

- (a) Plaintiff's Expert Disclosures was extended to September 15, 2021;
- (b) Defendant's Expert Disclosures is extended to September 30, 2021; and
- (c) The parties' deadline for filing dispositive and Daubert motions is extended to October 15, 2021. *See* Doc. No. 29.

2. The parties sought the previous extension because of industry conditions (the number and severity of storms in Texas and Oklahoma) and the ongoing COVID-19

pandemic (with high transmission rates in both states) and, given those conditions, the difficulty in scheduling and coordinating inspections and the finalizing of the expert reports. *See* Doc. 28.

3. Since the Court's August 26 order, one of Plaintiff's out-of-state designated experts has contracted, and is ill with, COVID-19. This is affecting the parties' ability to schedule expert depositions to meet the Daubert and dispositive motion deadline. This expert's testimony may affect subsequent deposition testimony, particularly any rebuttal by defense expert(s).

The parties also are scheduling other witness depositions, including respective corporate representatives.

4. Plaintiff, accordingly, seeks to continue the trial setting for 90 days, and extend the related scheduling order deadlines to ensure that the parties can schedule expert and other depositions, given the circumstances and other potential scheduling conflicts.

5. If the Court grants the relief sought, the new trial setting would be the Court's March 2022 docket, with the new deadlines:

- (a) Plaintiff's Expert Disclosures extended to December 14, 2021;
- (b) Defendant's Witness and Exhibit List is extended to December 28, 2021;
- (c) Defendant's Expert Disclosures is extended to December 29, 2021;
- (d) Dispositive and Daubert motions is extended to January 13, 2022, and
- (e) Discovery completed by February 1, 2022.

6. Plaintiff's counsel has consulted with Defendant's counsel, who has no

objection to this motion and the relief sought.

7. Federal Rule of Civil Procedure 6(b) empowers this Court to grant requests for extensions of time. The Court granted the previous 14-day extension for certain deadlines. That extension was to work through scheduling issues, and did not contemplate the current situation. Because the expert testimony impacts subsequent depositions, and potential Daubert or dispositive motions, the Plaintiff seeks this extension.

Wherefore, Plaintiff respectfully requests that the Court grant the extension.

Respectfully submitted,

FOSHEE & YAFFE LAW FIRM

/s/Terry M. McKeever

S. Alex Yaffe, OBA #21063

ay@fylaw.com

Terry M. McKeever, OBA #21751

tmm@fylaw.com

P.O. Box 890420

Oklahoma City, OK 73189

Telephone: (405) 632-6668

Facsimile: (405) 632-3036

and

PRESTON DUGAS LAW FIRM, PLLC

Preston J. Dugas, III, Bar No. 24050189

Admitted Pro Hac Vice

preston@pjdllawfirm.com

1701 River Run, Suite 703

Fort Worth, TX 76107

Telephone: (817) 945-3061

Facsimile: (682) 219-0761

Attorneys for AKY MD Gilbert LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of September 2021, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants and/or in accordance with the Federal Rules of Civil Procedure:

Stratton Taylor
Darrell W. Downs
Jacob R. Daniel
Mark H. Ramsey
R. Thompson Cooper

/s/Terry M. McKeever
Terry M. McKeever